

1979 S.C. Op. Atty. Gen. 6 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-4, 1979 WL 29010

Office of the Attorney General

State of South Carolina

Opinion No. 79-4

January 8, 1979

***1 SUBJECT: Education; school district**

(1) The increase in the State minimum salary schedule for teachers for FY 1979–80 will be determined by multiplying the previous 1.000 figure (\$8,750) times the lesser of (a) the inflation figure determined by the Division of Research and Statistics of the Budget and Control Board pursuant to § 50–20–40(1)(b) or (b) the percentage increase in the base student cost actually appropriated by the General Assembly for the ensuing fiscal year.

(2) § 59–20–40(5) requires that each school district attain specified pupil-teacher ratios in grades one through three, counted as a whole, to qualify for funds under the South Carolina Education Finance Act of 1977.

(3) The incentive proviso of § 59–20–40(2) is based upon the number of instructional staff members who have received Master's or higher level degrees. Vocational teachers who have Master's or higher level degrees may be included in such computation.

TO: R. W. Burnette

Deputy Superintendent of Education

QUESTIONS:

1) What procedures shall the State Department of Education utilize to determine the 1980 minimum salary schedule under the South Carolina Education Finance Act of 1977?

2) Under § 59–20–40(5) must the pupil-teacher ratio of a school district in grades one through three be considered as a whole or as separate grades?

3) Under § 59–20–40(2), should vocational teachers holding trade and industry certificates which are based upon work experience (Class I) and not Master's or higher degrees be included under the incentive proviso?

STATUTES AND CASES:

§ 59–20–10 et seq., as amended, and cited as ‘The South Carolina Education Finance Act of 1977’; [Cain v. South Carolina Public Service Authority](#), 222 S.C. 200, 72 S.E.2d 177 (1952); [Hatchett v. Nationwide Mut. Ins. Co.](#), 244 S.C. 425, 137 S.E.2d 608 (1964); [City of Columbia v. Niagara Fire Ins. Co.](#), 249 S.C. 388, 154 S.E.2d 674 (1967); [State-Record Pub. Co. v. South Carolina Employment Sec. Commission](#), 254 S.C. 1, 173 S.E.2d 144 (1970); 1978–79 Op. Atty. Gen. _____, dated May 15, 1978 from von Lehe to Burnette; 86 C.J.S. ‘Through,’ pg. 813; ‘Revised Requirements for Trade and Industrial Certification,’ South Carolina Department of Education ‘1978’;

DISCUSSION:

1) The South Carolina Education Finance Act of 1977 provides for a Statewide minimum salary schedule for teachers. § 59–20–50(4)(b) provides:

The state minimum salary schedule shall be based on the state aid teachers' salary index in effect at the time when the fiscal provisions of this chapter are implemented. In fiscal year 1979, the 1.000 figure in the index will be \$8,750. Beginning with fiscal year 1980, the 1.000 figure in the index shall be adjusted at the same percentage as the annual base student cost is adjusted. Provided, however, that the percentage increase in the minimum aid schedule shall not exceed the percentage increase in the appropriation per weighted pupil.

***2** The Act provides that the schedule will be based upon a salary index in effect when the fiscal provisions of the Chapter are implemented. Enclosed is a copy of the 1978–79 minimum salary schedule. The minimum salary for this year (the 1.000 figure) is \$8,750.00. § 59–20–50 provides for a method for each school district to attain this desired minimum salary schedule. The Act further provides that this figure will be adjusted at the same percentage as the annual base student cost is adjusted.

The General Assembly determines the base student cost annually in an effort that the base student cost will equal the defined minimum program within five years after the implementation of the Education Finance Act of 1977. § 59–20–40(1)(b) provides in part:

The base student cost shall be established annually by the General Assembly. The base student cost shall be established in such a manner that five years after July 2, 1978, the funding level shall approximate the cost of the defined minimum program as set forth by the State Board of Education. Each year the Division of Research and Statistics of the Budget and Control Board shall submit to the Legislature an estimate of the projected rate of inflation for the fiscal year to be budgeted, and the base student cost shall be adjusted to incorporate the inflated cost of providing the defined minimum program.

This proviso allows for an adjustment in the base student cost and the defined minimum program for increased cost due to inflation. The percentage increase in the minimum salary schedule for teachers cannot exceed the percentage increase in the base student cost and the defined minimum program that is actually appropriated by the General Assembly due to the projected rate of inflation for the fiscal year to be budgeted.

As an example, the 1.000 index figure in the State aide teacher salary index for fiscal year 1979 is \$8,750.00. The estimated rate of inflation prepared by the Division of Research and Statistics pursuant to § 59–20–40(1)(b) is 6.97 percent. Thus, the maximum adjusted 1.000 figure for fiscal year 1980 would be \$9,360.00. However, to achieve the full inflation adjustment in the State aid teacher salary index the General Assembly must appropriate at least this percentage increase in the appropriations per weighted pupil due to inflation.

As a further example of the qualifications imposed by § 59–20–50(4)(b): assume the inflation figure is 6.97 percent as above. However, the General Assembly appropriated an increase of only five percent in the appropriations per weighted pupil or the annual base student cost. Given these facts, the adjustment in the State minimum salary schedule could be no greater than five percent, the percentage the General Assembly actually appropriated due to inflation in the annual base student cost.

The increase in the State minimum salary schedule for FY 1979–80 should be determined by multiplying the previous 1.000 figure (\$8,750), times the lesser of the inflation figure determined by the Division of Research and Statistics of the Budget and Control Board pursuant to § 50–20–40–(1)(b) and the percentage increase in the base student cost actually appropriated for inflation by the General Assembly for the ensuing fiscal year.

(2) § 59–20–40(5) provides:

***3** To qualify for funds provided in this Chapter, each district must attain an average pupil teacher ratio based on average daily membership in the basic skills of reading and mathematics in grades one through three as follows . . .

The Act provides for average pupil-teacher ratios in basic skill areas in grades one through three. The ordinary and common meaning of 'through' is from end to end, side to side, or onward from point to point within. See 86 C.J.S. 'Through' at page 813. One of the primary rules in the construction of a statute is that words used therein should be taken in their ordinary and popular significance, unless there is something in the statute requiring a different interpretation. Hatchett v. Nationwide Mut. Ins. Co., 244 S.C. 425, 137 S.E.2d 608 (1964).

Giving the word 'through' its ordinary and common meaning, § 59-20-40(5) requires that each district attain the specified average pupil-teacher ratio in grades one through three, counted as a whole, to qualify for funds provided in the Act.

(3) § 59-20-40(2) provides:

Incentive proviso for strengthening the instructional staff.

Each district employing instructional staff members with Masters degrees or higher certification in excess of twenty-five percent of the total instructional staff shall be provided from state funds for each instructional staff member an amount equal to the state portion of the state-local percentage for the foundation program for the school district as provided in this act multiplied by two thousand dollars.

The incentive bonus to school districts for employing instructional staff members with advanced degrees is based upon the number of such employees in excess of twenty-five percent of the total instructional staff and is not based on the total number of instructional staff members with advanced degrees. See 1978-79 Op. Atty. Gen. No. ___, dated May 15, 1978, from von Lehe to Burnette.

The question has arisen whether vocational teachers holding trade and industry certificates which are based upon work experience (Class I) are included under the incentive proviso above. Trade and industry certificates are issued in the same groups and classes as academic certificates by the South Carolina Department of Education. These certificates are based upon educational background, or a mixed combination of educational background and work experience or work experience alone. There are presently five classes of trade certificates based upon the requirements previously mentioned. See 'Revised Requirements for Trade and Industrial Certification,' effective July 1, 1978, a copy of which is attached.

These five classes of certificates are classified in the minimum salary schedule along with other teaching certificates which are based solely upon educational accomplishment. The Class I teaching certificate for non-trade and industrial areas is based upon the receipt of a Master's degree in the appropriate area. However, a Class I trade and industrial certificate can be awarded by the receipt of a Master's degree in an appropriate field or a Bachelor's degree and eighteen semester hours post graduate credit in an appropriate field plus two years of related work experience or ten years of successful and related work experience and other requirements. Although the pay scale for Class I certificates for trade and industry and traditional certificates are the same, it is apparent that the qualifications for the certificate are vastly different.

*4 The bonus in question is a legislative grant and as such is subject to strict construction. See Cain v. South Carolina Public Service Authority, 222 S.C. 200, 72 S.E.2d 177 (1952) and other related cases collected in 17 West's South Carolina Digest, Statutes, § 238. When a statute is subject to more than one interpretation, legislative intent is controlling. State-Record Pub. Co. v. South Carolina Employment Sec. Commission, 254 S.C. 1, 173 S.E.2d 144 (1970). All rules of statutory construction have for their sole object the discovery of legislative intent. City of Columbia v. Niagara Fire Ins. Co., 249 S.C. 388, 154 S.E.2d 674 (1967). The purpose of the proviso is obviously to encourage the upgrading of the district's teaching core. The bonus payments are given to the district with no strings attached. It is clear that the Legislature wanted to encourage South Carolina educators to attain degrees at the Master's level or above. The bonus proviso applies to each district employing instructional staff members with Master's degrees or higher certification in excess of twenty-five percent of the total instructional staff. The Legislature, in our view, intended to reward school districts who had a high percentage of teachers with degrees at the Master's level or above.

Individuals with trade or industrial certificates who have a Master's degree or higher degree would be included in computing the percentage.

Frank H. DuRant

Assistant Attorney General

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